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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,008	07/03/2002	Gilbert Wolrich	10559-311US1 / P9632US	5753
20985 7590 12/20/2007 FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER PAN, DANIEL H	
			ART UNIT 2183	PAPER NUMBER
			MAIL DATE 12/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/070,008	<b>Applicant(s)</b> WOLRICH ET AL.	
	<b>Examiner</b> Daniel Pan	<b>Art Unit</b> 2183	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-8,10-13,17,19-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) 2,5,9,14-16,18 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-8,10-13,17,19-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/19/07,05/01/07</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Claims 1,3,4,6-8,10-13,17,19-22,24-26 remain for examination. Claims 2,5,9, 14-16,18,23 have been canceled.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The reasons are given below.

3. Upon further review, rejections to claims 1,17 under 35 U.S.C. 101 have been withdrawn. However, rejection to claim 22 has been maintained. Claim 22 discloses decode logic. A logic is an abstract idea. Although the preamble recites "processor", no components of processor have been reflected into the claim body. Therefore, the decode logic is read as an abstract idea.

4. Claims 1,3, 4,6-8,11,12, 13,17, 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al. (5,517, 628) in view of Peters et al. (4,606,025).

5. As to the newly amended claim feature, Morrison also taught retrieving instruction for the branch taken and next sequential instruction (e.g. see the non-zero and zero value of the delay field for the branch condition in co1.45, lines 1-34, see the basic block as the sequential instructions). See also the second token in col.43, lines 17-26, col.44, lines 51-55.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al. (5,517, 628) in view of Peters et al. (4,606,025) and as applied to claim 1 above, and further in view of Khim Yeoh et al. (5,274,770).

7. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al. (5,517,628) in view of Peters et al. (4,606,025) and as applied to claims 1, 17, 22 above, and further in view of Chrysos (5,923,872).

8. The rejections are maintained and incorporated by reference the last Office action on 06/07/07.

9. The response filed on 10/04/07 has been fully considered but is not persuasive. In the remarks , applicant argued that :

- a) claim 22 recites decode logic includes instruction decoder and a program counter;
- b) Morrison does not describe his instruction include a field or a token that specifies a branch guess operation;
- c) Peter does not teach or suggest "... executing a branch instruction in execution of an instruction stream with the branch instruction ... a second token that specifies a branch guess operation ..."

10. As to a) above, the fact that decode logic includes a decoder and a program counter does not affect the meaning of a logic which is an abstract idea.

11. As to b), Morrison clearly taught a condition code field (col.43, lines 17-26, col.44, lines 51-55) for specifying a branch guess operation.

12. As to c) above, Peter was used to supplement the teaching of a routine for calculating a delay between instructions based the type and the number of instructions (see col.18, lines 47-58). The reasons of obviousness for using Peter in Morisson have been given in Page 4 in last Office action on 06/07/07. Therefore, it will not be repeated herein.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

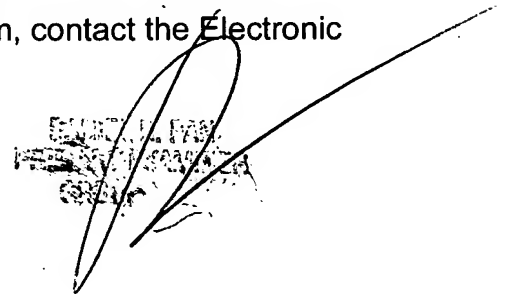
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pan whose telephone number is 571 272 4172. The examiner can normally be reached on M-F from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chan, can be reached on 571 272 4162. The fax phone number for the organization where this application or proceeding is assigned is 703 306 5404.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**21 Century Strategic Plan**

A handwritten signature in black ink is written over a rectangular official stamp. The stamp contains the text "UNITED STATES PATENT AND TRADEMARK OFFICE" and "COMMUNICATIONS SECTION". The signature is a large, stylized cursive mark.